

## **Remarks**

### **1. Summary of Office Action**

In the Office Action mailed on September 27, 2004, the Examiner rejected all of pending claims 1-43. Specifically, the Examiner rejected claims 16 and 41 under 35 U.S.C. Section 112, first paragraph, claims 1-4, 8-15, 17-21, 25-33, 37-40, 42 and 43 under 35 U.S.C. Section 103 as being unpatentable over a combination of disclosure in Applicant's specification, Kumar (U.S. Patent 6,473,396), and Kadansky (U.S. Patent 6,507,562), and claims 5-7, 22-24, and 34-36 as being unpatentable over a combination of disclosure in Applicant's specification, Kumar, Kadansky, and Lau (U.S. Patent 5,774,465)

### **2. Amendments**

Applicant has amended various portions of the specification, as described in more detail below.

Applicant has cancelled claims 16, 17, 28-37, 41, and 42. Applicant has also amended claims 1, 13, 18, and 38 to recite the invention more clearly, as fully supported by Applicant's specification.

Pending in this application are claims 1-15, 18-27, 38-40, and 43, of which claims 1, 13, 18, and 38 are independent and the remainder are dependent.

### **3. Response to Information Disclosure Statement Requirement**

Applicant has listed the references cited on page 11, lines 1-6, of the specification on form PTO-1449 included herein.

#### **4. Response to Drawing Objections**

In the Office Action, the Examiner asserted that “Fig. 1-3 have been designated by the legend --Prior Art--; however these figures are referenced in the specification as being part of the invention.”

Applicant respectfully submits that in the specification, as filed, Figure 3 has not been designated by Applicant as --Prior Art--. Therefore, Applicant respectfully requests withdrawal of the Examiner’s requirement of corrections with respect to Figure 3.

Further, Applicant has corrected the specification to indicate that Figures 1 and 2 illustrate a typical network telephony system in which an exemplary embodiment of the invention can be implemented.

Applicant believes that these corrections comply with the Examiner’s suggested corrections.

#### **5. Response to Specification Objections**

Applicants have amended the specification on page 9, line 14, and page 7, lines 28-29, to correct the informalities noted by the Examiner. Applicant respectfully submits that that these corrections overcome the Examiner’s objections.

Further, as requested by the Examiner, Applicant has amended the specification to updated the status of the related applications.

#### **6. Response to Claim Objections**

The Examiner objected to claims 13 and 38 on grounds that “[a]s written, the backup will always receive a message from the first network entity and transmit this message to a second network entity regardless of whether the active proxy is operating or not.”

Applicant has amended claims 13 and 38 to clarify that this is not the case. In particular, claim 13 presently recites “a receiver operable to receive a first signaling message from a first network entity via a network, *wherein the first signaling message includes at least one path attribute including a network address corresponding to the backup proxy server such that the backup proxy server receives the first signaling message instead of the primary proxy server*”. Similarly, claim 38 recites the limitation of “receiving a first signaling message from a first network entity via a network, *wherein the first signaling message includes at least one path attribute including a network address corresponding to the backup proxy server such that the backup proxy server receives the first signaling message instead of the primary proxy server*”.

Applicant believes that, as presently recited, claims 13 and 38 make clear that a backup proxy server **does not always** receive a first signaling message, but rather **only when** the first signaling message includes at least one path attribute including a network address of the backup proxy server.

Applicant believes that these amendments overcome the Examiner’s objections with respect to claims 13 and 38, and Applicant requests withdrawal of these objections.

**7. Response to Claim Rejections under 35 U.S.C. § 112, First Paragraph**

Applicant has cancelled claims 16 and 41 without prejudice, and thus respectfully traverses the Examiner's rejections under 35 U.S.C. § 112 as moot with respect to these claims.

**8. Response to § 103 Rejections of Claims 1-4, 8-15, 17-21, 25-33, 37-40, 42 and 43**

As noted above, the Examiner rejected claims 1-4, 8-15, 17-21, 25-33, 37-40, 42 and 43 under a combination of cited disclosure in Applicant’s specification, Kumar, and Kadansky.

a. **Claims 1-4, 8-15, 18-21, and 25-27**

Applicant respectfully traverses the Examiner's rejections with respect to claims 1-4, 8-15, 18-21, and 25-27, because the cited combination does not teach or suggest all of the elements of any of these claims, as would be required to establish a *prima facie* case of obviousness. (M.P.E.P. § 2143)

Independent claim 13, as amended above, is directed to a system for providing fault tolerance in a network telephony system. The system includes a receiver that receives a first signaling message from a first network entity via a network and a transmitter that transmits a second signaling message to a second network entity via the network. The system further includes "an assembler operable to *modify the first signaling message to obtain the second signaling message by adding at least a path attribute including at least one network address corresponding to a backup proxy server.*"

Similarly, independent claim 18 is directed to a method for providing fault tolerance at a proxy server, including "receiving a first signaling message from a first network entity", "determining a second network entity to which a second signaling message is to be transmitted", and further, "*modifying the first signaling message to obtain the second signaling message by inserting at least a path attribute, wherein the path attribute includes at least one network address corresponding to a backup proxy server.*"

Applicant respectfully submits the cited combination does not teach or suggest at least the claimed function of: *modifying a first signaling message (received from a first network entity) to obtain a second signaling message (to be transmitted to a second network entity) by adding at least a path attribute that includes at least one network address corresponding to a backup proxy server.*

At best, the disclosure in Applicant's specification cited by the Examiner teaches a system that includes first and second network entities that communicate with each other via intermediate network elements, such as proxy server(s). Kumar teaches a module redundant system, including an active module and a number of standby modules.

For example, in the passages cited by Examiner, Kumar discloses that one of the standby modules may become a new active server in the event the currently active server fails to function. In this regard, Kumar further discloses that once the standby module becomes the new active server, the new active server may determine the client modules connected to the previously active server and send those modules a broadcast to announce that a changeover occurred. The client modules can then modify their address lookup table accordingly.

However, neither the disclosure cited by the Examiner from Applicant's specification nor Kumar, separately or in combination, teaches or suggests the presently claimed invention that is recited in each of independent claims 13 and 38, as amended above.

Further, Applicant respectfully submits that Kadansky fails to overcome these deficiencies. Kadansky teaches a system in which a plurality of receiver stations choose (or affiliate with) a repair head station from among the closely located receiver stations. The repair head station functions to "repair", or retransmit, any missing messages transmitted from a sender station to the member stations under the repair head station.

At best, at col. 27, lines 13-34, as cited by the Examiner, Kadansky teaches a scenario in which two repair heads are located close to each other and one of the repair heads resigns in favor of the other repair head. To ensure smooth and quick re-affiliations of its members, the resigning repair head can include details of any backup repair head (e.g., a network address) in

the “Hello” message sent to its members. Some of the members may choose to re-affiliate with the backup repair head, while others can choose to re-affiliate with a different repair head.

Applicants, however, respectfully submit that a person skilled in the art would recognize that this *general description* of a repair head providing a network address of a backup repair head to its members *does not disclose the specific functions* presently claimed by Applicants.

Namely, Applicants do not find in Kadansky any disclosure of the claimed process that could be carried out at a proxy server (as recited in claim 18) and that includes *the specific function of*: modifying a first signaling message (received from a first network entity) to obtain a second signaling message (to be transmitted to a second network entity) by inserting at least a path attribute that includes at least one network address corresponding to a backup proxy server, as presently recited in each of claims 1 and 18.

Because the cited combination fails to disclose or suggest all of the elements of either independent claim 1 or 18, Applicant submits that the cited combination fails to render these claims obvious. Therefore, Applicant submits that claims 1 and 18 are in condition for allowance. Accordingly, each of dependent claims 2-4, 8-15, 19-21, and 25-27 is also in condition for allowance.

**b. Claims 13-15, 17, 38-40, 42, and 43**

Independent claims 13 and 38 are directed to a system and method for providing fault tolerance in a network telephony system at a backup proxy server associated with a primary proxy server. In this regard, each of claims 13 and 38, as amended above, presently recites the function of: *modifying a routing attribute in a first signaling message (received at the proxy server from a first network entity) to obtain a second signaling message (to be transmitted from the proxy server to a second network entity), thereby enabling at least one of the first network*

*entity and the second network entity to route any subsequent signaling messages through the backup proxy server instead of through the primary proxy server.*

Each of the dependent claims depends on either claim 13 or 38 and therefore includes all of the limitations of respective claim 13 or 38.

Applicant has cancelled claims 17 and 42 without prejudice, and thus respectfully traverses the Examiner's rejections with respect to claims 17 and 42 as moot. Applicant also respectfully traverses the Examiner's rejections with respect to claims 13-15, 38-40, and 43 because the cited combination does not teach or suggest at least this claimed limitation recited above.

In the Office Action, the Examiner recognized that the combination of Applicant's cited disclosure and Kumar does not explicitly teach the function of "modifying a routing attribute in the first signaling message received to obtain the second signaling message." The Examiner then cited to Kadansky in an effort to reconstruct Applicant's claimed invention.

As noted above with respect to claims 1 and 18, Kadansky teaches a system in which a plurality of receiver stations choose (or affiliate with) a repair head station from among the closely located receiver stations. Specifically, the Examiner again cited to the passage at col. 27, lines 13-34, in which Kadansky teaches a scenario in which two repair heads are located close to each other and one of the repair heads resigns in favor of the other repair head. To ensure smooth and quick re-affiliations of its members, the resigning repair head can send details of any backup repair head (e.g., a network address) to the members.

Applicant, however, respectfully submits that this teaching in Kadansky, like the rest of Kadansky, fails to specifically disclose or suggest the presently claimed limitation of: *modifying a routing attribute in a first signaling message (received at a proxy server from a first network*

*entity) to obtain a second signaling message (to be transmitted from the proxy server to a second network entity) ), thereby enabling at least one of the first network entity and the second network entity to route any subsequent signaling messages through the backup proxy server instead of through the primary proxy server.*

Advantageously, with Applicant's claimed invention, once the second network entity receives the second signaling message from the backup proxy server, the second network entity can use the routing information from the second signaling message to transmit a response message through the backup proxy server rather than attempting to transmit the response message through the primary proxy server that may be no longer functioning.

**c. Claims 28-33 and 37**

Applicant has cancelled claims 28-33 and 37 without prejudice, and thus respectfully traverse the Examiner's rejections under 35 U.S.C. § 103 as moot with respect to these claims.

**9. Response to § 103 Rejections of Claims 5-7, 22-24, and 34-36**

As further noted above, the Examiner rejected claims 5-7, 22-24, and 34-36 under a combination of cited disclosure in Applicant's specification, Kumar, Kadansky, and Lau.

Applicant has cancelled claims 34-36 without prejudice, and thus respectfully traverses the Examiner's rejections under 35 U.S.C. § 103 as moot with respect to these claims. Further, each of claims 5-7 and 22-24 ultimately depends on claim 1 or 18 and necessarily incorporates all of the limitations of claim 1 or 18. As discussed above, the cited combination of disclosure from Applicant's specification, Kumar, and Kadansky does not render the invention of claim 1 or 18 obvious. Therefore, the cited combination also fails to render the invention of any of claims 5-7 and 22-24 obvious. Further, Applicant respectfully submits that Lau fails to overcome the deficiencies of the cited art as described above with respect to claims 1 and 18.



Applicant does not concede that the representations made more specifically by the Examiner with respect to dependent claims 5-7 and 22-24 are correct. However, Applicant submits that those other points are moot in view of the fact that the cited combination fails to teach or suggest the invention as recited in each of parent claims 1 and 18.

**10. Conclusion**

Accordingly, Applicant respectfully submit that all of presently pending claims 1-15, 18-27, 38-40, and 43 are in condition for allowance, and Applicant respectfully requests favorable reconsideration.

Respectfully submitted,

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